



10-1-2011

The Innocence Quarterly [Fall 2011]

Northern California Innocence Project

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Northern California Innocence Project, "The Innocence Quarterly [Fall 2011]" (2011). *Northern California Innocence Project Newsletter*. Book 6.
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Northern California Innocence Project

Celebrating 10 Years

I am innocent.



No one will listen.

NCIP Client Obie Anthony Freed After 17 Years

In their record third exoneration in one year, NCIP lawyers help get murder and attempted robbery convictions set aside by uncovering new evidence of innocence.

For the first time in 17 years, on October 4, 2011, NCIP client Obie Anthony walked out of Los Angeles County jail a free man.

On Friday, September 30, 2011, Los Angeles County Superior Court Judge Kelvin Filer vacated Anthony's 1995 murder and attempted robbery convictions on the basis of the cumulative harm of several constitutional errors.

Specifically, the judge found that Mr. Anthony was convicted on the basis of false testimony which, in combination with prosecutorial misconduct and an inadequate investigation by defense counsel, deprived Mr. Anthony of a fair trial.

In overturning the conviction, Judge Filer said that the prosecution's chief witness, around whom the entire case for trial was built, "will say almost anything to avoid consequences to himself... in an earlier proceeding, he lied about the death of his own mother."

Judge Filer issued the order after lawyers from NCIP at Santa Clara University School of Law, who have represented Anthony for three years, along with lawyers from Loyola Law School's Project for the Innocent, presented evidence of his innocence during an 11-day evidentiary hearing.

During the hearing, NCIP and Loyola lawyers demonstrated the prosecution's key witness, John Jones, had lied repeatedly at trial, and that the prosecution knew of his lies and failed to correct them for the jury. They also presented evidence that the prosecution suppressed evidence that

Attorney Paige Kaneb Shines as Example of NCIP Mission

Obie Anthony, Maurice Caldwell, and Francisco "Franky" Carrillo, Jr.—three exonerations in one year.

That's a remarkable achievement for NCIP and particularly for Supervising Attorney Paige Kaneb, who played a significant role in the three cases.

Her work has produced an abundance of gratitude—from the innocent who have been freed, their loved ones, and from NCIP. The Project is also grateful for the donors whose generosity provided the means to hire Kaneb in 2007 as a clinical fellow.

Inspired by a speech at San Francisco University School of Law by NCIP Executive Director Cookie Ridolfi, Paige volunteered to work at NCIP in 2007 after her law school graduation. Looking back, she recalls that she thought exonerations were far easier to obtain than what reality proved them to be.

"When I first came to the Project, I thought when you found someone who was innocent, it would be easy to



An emotional Obie Anthony hugs NCIP attorney Paige Kaneb upon learning his conviction was overturned.

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Special Acknowledgements

Deborah Lohse, Michelle Waters, Julia Yaffee

This newsletter is published twice a year for friends of the Northern California Innocence Project at Santa Clara Law, 900 Lafayette Street, Santa Clara, CA, 95050; 408-554-4790 (tel), 408-554-5440 (fax); ncip@scu.edu. We welcome your comments.

The Northern California Innocence Project at Santa Clara Law, a part of the Innocence Network, operates as a law school clinical program where student interns, clinical fellows, attorneys, and volunteers work to identify and provide legal representation to wrongfully convicted prisoners. NCIP is also dedicated to raising public awareness about the prevalence and causes of wrongful conviction as well as promoting substantive legal reforms to prevent future wrongful convictions.

From the Executive Director

Dear Friends,

In 2010, NCIP's Veritas Initiative published "Preventable Error: A Report On Prosecutorial Misconduct in California 1997–2009." The study, which received widespread attention, has given NCIP a leading role in national reform efforts and in a national tour to raise awareness about prosecutorial misconduct. The tour, "Prosecutorial Oversight: A National Dialogue in the Wake of Connick v. Thompson," is a collaboration with the Innocence Project, Innocence Project New Orleans and Innocence Network member-organizations in six states and will invite discourse about strategies to address the problem. The tour was formally announced on October 27 at the National Press Club in Washington, D.C. For more on the prosecutorial oversight tour, visit www.prosecutorialoversight.org. Refer to www.veritasinitiative.org for more information on prosecutorial misconduct.

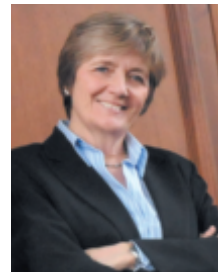
This year we celebrate our 10th anniversary and it has been one of the most successful in our history.

With the hard work and dedication of our legal team, we recently celebrated exonerations in three cases—of men who together lost 57 years of their lives to wrongful conviction—bringing to 13 the total number of exonerations in our 10 years. See pages 8–9 for more on why exonerating the wrongfully convicted is such a long and complex process. When we started I could never have imagined the difference we would make in the lives of so many people and the distance we would come in advancing reforms to prevent future wrongful convictions. I am overwhelmed by my sense of gratitude to you who have pushed us this far.

Our three recent exonerations all involved eyewitness misidentification, the most prevalent cause of wrongful conviction. Mistaken identification is a serious problem in California and an issue of great concern to us. We are actively seeking collaborations with members of the Attorney General's office, police departments and legislators to reform California practices to improve the accuracy of eyewitness identification. Soon we will be releasing a report on this issue. See page 3 for more on eyewitness identification.

NCIP's Innocence Matters Breakfast Briefings are continuing to educate the community about wrongful conviction and its causes. This distinguished speakers series has become a mainstay of our education mission. See page 16 for a recap of previous events and a schedule of what is to come.

And finally, please mark your calendars: on March 22, 2012 we will be hosting our Fifth Annual Justice for All Awards Dinner and look forward to seeing you there!



Cookie Ridolfi

Kathleen "Cookie" Ridolfi

Troy Davis Case Tragically Portrays the Fallibility of Eyewitness Identifications

The execution of Troy Davis by the state of Georgia in September this year galvanized citizens—the ordinary and the famous—to raise their voices in protest because there were serious questions raised about his guilt.

Davis was convicted almost entirely on unreliable eyewitness evidence. Seven



of the nine witnesses who testified against him at trial later recanted. In addition, evidence developed after trial pointed to the guilt of another man.

Yet Davis was executed on September 21, 2011.

The case is a stark example of the difficulty of proving wrongful convictions and how, despite compelling evidence of innocence, exonerations can be elusive. And in the case of Davis, the consequence was death—even in the face of overwhelming doubt about his guilt.

Davis's case also called into question the reliability of eyewitness identification. Over the past several decades, the fallibility of eyewitness identification has been established in overwhelming fashion in study after study. More than 75 percent of all DNA exonerations in the United States have involved faulty eyewitness identification, many of them due to police procedures that have been proven to unduly influence witnesses to identify the wrong criminals.

The Northern California Innocence Project is near completion of the first stage of a statewide study of eyewitness identification procedures in California. Initial research shows that a majority of California's law enforcement jurisdictions

If statistics are any indication, the system may well be allowing some innocent defendants to be executed.

— Former United States Supreme Court Justice Sandra Day O'Connor

have failed to implement practices to ensure better eyewitness identifications.

NCIP's data dovetails with a growing body of state-by-state research that shows many jurisdictions across the country have failed to implement known best practices.

What are the known best practices when it comes to eyewitness identification? As outlined in the State Senate's California Commission for the Fair Administration of Justice, there are a range of procedural reforms to improve the accuracy of eyewitness identification. These reforms have been recognized by police, prosecutorial and judicial experience, as well as national justice organizations, including the National Institute of Justice and the American Bar Association. The benefits of these reforms are corroborated by nearly 40 years of peer-reviewed comprehensive research. (For more information go to: www.veritasinitiative.org/our-work/eyewitness-identification/)

How are the known best practices implemented? Many states, including California, do not require law enforcement agencies to implement the best practices. For example, California investigative agencies are not required to have any form of written eyewitness identification policies or procedures. Across the country, there are two methods emerging in the implementation of established best practices. Both law enforcement and

district attorney offices can step up and implement them, as has occurred in a number of jurisdictions, including the state of North Carolina, and in California's Santa Clara County. Or the implementation can be mandated by state legislatures or courts, as has happened in New Jersey and Wisconsin.

Our data shows California is lagging behind in implementing known best practices that will prevent one of the leading causes of wrongful conviction. NCIP continues its efforts to advance reform in California eyewitness identification procedures and we hope you will join us in this endeavor. ♦

Scan this code to donate now to help NCIP advance the implementation of best practices in eyewitness identification. Or go to www.NCIP.scu.edu and click on "donate to NCIP."



10 Years and Counting: Stories of the Innocent Keep NCIP Foun

Reflecting on the Past, Envisioning the Future

Cookie Ridolfi and Linda Starr had no idea when they opened NCIP's doors in January 2001 that they would be on the ground floor of the innocence movement.

Ridolfi, who started at Santa Clara Law as director of its Criminal Defense clinic in 1991, got more than she bargained for in 2000, when New York Innocence Project founder Barry Scheck asked her and SCU Law Professor Ellen Kreitzberg to lunch.



2001 – Cookie Ridolfi reviews letters from inmates claiming innocence.

“The Criminal Defense clinic at that point had been working mostly on misdemeanor cases, with the exception of representing a battered woman in her clemency petition,” Ridolfi explained.

All that changed after the meeting with Scheck.

Scheck told them that an Innocence Project was needed in California. Ridolfi, who had followed innocence work since her days as a public defender, offered to take a few cases as part of the Criminal Defense clinic. Ellen Kreitzberg later became a founding member of the Advisory Board.

Ridolfi told Starr, who was working in private practice at the time, about the fledgling Innocence Project and Starr offered to help with cases on a pro bono basis. Starr, a former New York prosecutor, had met Ridolfi years earlier at a conference. She and Ridolfi had

been part of a group that led the work on battered women's clemency petitions in California in 1992. As an attorney, Starr said she was always attracted to the places in the system that didn't work.

“I've always believed that if the system doesn't work for everyone, then it doesn't work,” she said.

Build It and They Will Come



2002 – Linda Starr (top), exoneree Ron Reno and his girlfriend Debbie Brown

The two attorneys and Ridolfi's Criminal Defense clinic students were working innocence cases when a law was passed in California giving prisoners the right to DNA testing to prove their innocence. Ridolfi and Starr learned about pending legislation allocating \$800,000 for two years to help pay lawyers to work on these DNA cases. They officially opened the doors to the Northern California Innocence Project in January 2001 in hopes of securing some of the funding to keep it in operation.

“Although I was convinced there was a need for an Innocence Project from my 10 years as a public defender, there was also a little bit of ‘if we build it, they will come,’” said Ridolfi.

And come they did. The Northern California Innocence Project received close to 700 letters in its first month, far beyond the expectations its founders imagined. “We heard prisons were running commercials telling inmates about the project,” said Starr.

In the first NCIP clinic class, Ridolfi and Starr created the required forms



2004 – John Stoll shows off his new driver's license at a reception given in his honor.

and set up a system for reviewing all the letters. They learned from other innocence projects to always open the letters right away. They sat as a group—clinic students with Ridolfi and Starr—read the letters and responded together.

The more Ridolfi and Starr immersed themselves in the work, the more they knew they were on the ground floor of something big. As they taught the class, they stayed abreast of all the advances in DNA testing and policy efforts.

“We realized so much was possible,” Ridolfi said. “I was starving for this kind of change.”

Rocky Times

But by 2004 the state-funded grant was running out, and the small staff they had built was moving on to take other jobs due to the lack of funding. Starr was still doing the work on top of her demanding private practice job, working many long days and weeks.



2006 – Actor Kyle MacLachlan poses with NCIP students.

ders Going

Even so, they wanted to keep it going. They were working on the John Stoll case and knew he was innocent. Things were rocky for a while, with no money or support to accomplish all their goals: Starr wanted to stay focused on cases, and Ridolfi was passionate about policy work. They had to find a way to balance the cases and the policy work with little to no resources.



2009 – Linda Starr with NCIP advanced students

Serendipity

Then in May 2004, NCIP secured John Stoll's exoneration. When Stoll was due to walk into the NCIP office for the first time, a *San Jose Mercury News* reporter, who had heard about the case, was there and captured the remarkable event where Stoll met all the students who worked on his case. The reporter told Ridolfi that they had to find a way to continue the Project. "She said, 'I'm going to write this story and it's going to reach someone,'" remembered Ridolfi.

Enter Frank and Denise Quattrone.

As legend has it, Denise saw the *Mercury News* story and said, "Frank, you need to see this." They contacted Ridolfi, set up a meeting, and the rest, as they say, is history.

The Quattrones have provided leadership and financial support as NCIP evolved from a nearly bankrupt pro bono legal clinic to the nation's third largest Innocence Project. NCIP has attracted the faculty, staff, advisory board members and donor support which have led to the exoneration of 13 innocent men and

women, and has played a lead role in policy initiatives both in California and nationwide that will reduce and hopefully eliminate wrongful convictions.

"We were very much like the underfunded startups Frank was accustomed to working with," Ridolfi explained. "He was instrumental in putting us on a path to becoming what we are today."

The First 10 Years: Exoneration, Education, and Reform

And what, exactly, is NCIP today and what impact has it made in the past 10 years? Ridolfi and Starr agree NCIP has made an impact in more ways than initially envisioned. "I remember when we first started, a reporter asked me, 'Why are you doing this here? We don't have this problem in California?' We'd never get that question now," said Ridolfi.



2011 – SCU Law Dean Don Polden and his wife, Susie, welcome actress Juliette Lewis to the Justice for All Awards Dinner.

Starr expanded, saying, "We started as a small little clinic, focused on giving Santa Clara Law students hands-on experience with post-conviction criminal cases, and we thought we would help a few people and then run out of cases. Now we're a resource for attorneys throughout the state, have a growing caseload of a wide variety of cases raising a wide range of issues, and are a national center for policy work. We're a symbol of justice and fairness."

And they now know they'll never run out of cases "because the same factors



2011 – Maurice Caldwell and Franky Carrillo tell their stories during an NCIP Breakfast Briefing.

that caused wrongful convictions in the past still exist," Starr said. "We now have helped free 13 innocent people."

Starr is NCIP legal director and teaches the NCIP clinic, which to date has graduated 600 law students from its Basic and Advanced Clinical Programs. She oversees five attorneys who handle a total of 744 active cases, and oversees a growing number of outside counsel and investigators, who work along side NCIP attorneys and students on these cases. She says she has been delighted working with the clinic students on cases. "It can be so easy to get drawn into the cases. It's a treat to have a student come in and give a fresh perspective," she said. "I've been amazed how much I love the teaching part of the job."

Promoting change in the justice system as well as exonerating the innocent have become more promising possibilities than a decade ago.

"We've made a lot of progress," said Ridolfi. "People are listening now. As more exonerations occur, people in the justice system are realizing that they have to be careful about immediately deciding someone is guilty. Even judges, now that they know mistakes happen, are more open to believing that maybe something did happen in the case they're hearing because it's happened in other cases."

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Keker and Van Nest LLP: Partner in Promoting Justice

In July 2007, NCIP received a letter seeking help from Michael Berger, trial counsel for John Smith.* Mr. Berger wrote that he believed Mr. Smith was an innocent man who had been wrongfully convicted of attempted murder and sentenced to life in prison.

Mr. Smith's jury returned a guilty verdict based solely upon eyewitness testimony uncorroborated by any physical evidence. Mindful of the fact that mistaken eyewitness identification is by far the leading cause of wrongful convictions, NCIP reviewed the case. After extensive review, NCIP strongly believed the eyewitnesses were mistaken and that Mr. Smith, who had no history of violence, was innocent.

NCIP sought assistance from Elliott Peters of Keker and Van Nest LLP, who in 2003 helped secure the freedom of John Tension—a San Francisco man who spent 13 years in prison for a

murder he did not commit. Mr. Peters reviewed Mr. Smith's case with Keker associate Jo Golub, and they agreed to help NCIP challenge John Smith's conviction. Keker and NCIP developed a strategy for the challenge, conducted legal research, consulted with expert witnesses, and Keker funded the work of investigator Keith McArthur. As a result of this collaboration, Mr. Smith's legal team discovered new exculpatory evidence and is drafting a petition for writ of habeas corpus that seeks to set aside Mr. Smith's conviction.

In addition, in 2006 NCIP enlisted the help of Keker and Van Nest attorneys Daniel Purcell, Eric MacMichael, and Zachary Bookman to work on the case of Caramad Conley, who had been unlawfully imprisoned for 18 years based on a wrongful double murder conviction. While investigating the case, the Keker team uncovered evidence that the San

Francisco Police Department had suppressed the fact that they paid the key prosecution witness thousands of dollars and then knowingly allowed the witness to lie about the payments during Conley's trial. The revelation of this discovery compelled Judge Marla Miller to issue a writ of habeas corpus in December 2010, vacating the unconstitutional murder



Keker and Van Nest associate attorney Jo Golub

conviction of Caramad Conley. Mr. Purcell reflected on the victory saying, "Caramad is an innocent man who lost 18 years of his life to false testimony and deliberate and inexcusable police misconduct. Nothing can give him back that lost time, but we know he's looking forward to spending time with his family and resuming his life."

For their commendable pro bono effort on these cases, as well as their contribution to promoting NCIP's principles of justice, we would like to extend our warmest appreciation to the Keker and Van Nest attorneys. ♦

If your firm would like to assist with an innocence case, please contact NCIP attorney Rhonda Donato at rdonato@scu.edu.

* Name has been changed



Free after 18 years, Caramad Conley (left) talks with his attorneys, Daniel Purcell and Zachary Bookman from Keker and Van Nest.

The Northern California Innocence Project would like to extend its thanks to the following firms which have provided thousands of pro bono hours and resources to pursue justice for all:

Cooley LLP
Goodwin Proctor
Howard Rice Nemerovski Canady Falk & Rabkin PC
Keker and Van Nest LLP
Latham & Watkins LLP
McDermott Will & Emery
Morgan, Lewis & Bockius

Morrison & Foerster LLP
Orrick, Herrington & Sutcliffe LLP
Quinn Emanuel Urquhart & Sullivan LLP
Reed Smith LLP
Shearman & Sterling LLP
Simpson Thacher
Weil, Gotshal & Manges LLP

Santa Clara County's Conviction Integrity Unit to Help Prevent Wrongful Convictions

When running for the Santa Clara County district attorney's seat in 2010, then-Deputy District Attorney Jeff Rosen made it clear that the tenet of "pursuing justice justly" meant not only conviction of the guilty but also protection of the innocent. Once in office Rosen, honoring his commitment, promptly established a Conviction Integrity Unit to ensure that the best practices in law enforcement are implemented to obtain convictions.

"Our mission is to prosecute the guilty because accountability mandates it, and to exonerate the innocent because justice demands it," Rosen said at NCIP's January 2011 Breakfast Briefing.

An internal investigation unit to review innocence claims was originally instituted in Santa Clara County by then-District Attorney George Kennedy. He selected Assistant District Attorney David Angel to head the unit. When Kennedy retired, his successor, Dolores Carr, disbanded the unit.

Rosen was inspired to build on Kennedy's original unit by a similar unit formed in Dallas County, Texas, by District Attorney Craig Watkins. Watkins formed his Conviction Integrity Unit after his election in 2006 to ensure proper prosecutorial procedures, and began working with the Texas Innocence Project to find cases of wrongful conviction. Since then, DNA testing has proven the innocence of 21 wrongly convicted Texas prisoners.

In Santa Clara County, Rosen again tapped David Angel to head the new Conviction Integrity Unit. Angel was enthusiastic to preside over the unit, and after being offered the role, he considered how the unit should be structured within the larger office. "What George Kennedy did was path breaking," Angel said. "We wanted to take his trial project to the next level and transition it into a centralized unit."



Assistant District Attorney David Angel, left, with Santa Clara District Attorney Jeff Rosen

Rather than building the Conviction Integrity Unit as a single, isolated body within the DA's office, Angel stated that they took a broader approach and wove the unit's philosophy throughout the Office's organizational structure to catch potential errors before they occur. To ensure this, the Unit educates prosecutors to limit the possibility of error, such as may arise in the examination of fingerprints, the use of warrants, securing suspect statements, and evidence disclosure requirements. The team will monitor various procedures including arrests, prosecutions and convictions, and train prosecutors to meet high ethical standards.

While the Unit does not generally focus on individual cases, it will investigate individual cases in certain

instances where new evidence has been presented that may prompt a reversal of conviction. This could include reviewing a previous conviction using modern DNA technology to reconcile potential errors, or other new evidence—not solely DNA. They will also consider communications from the defendant's defense attorney or concerns from organizations like NCIP that strongly believe something went wrong in a particular case.

"In addition, when dealing with systematic reform, the Unit will consult with other agencies," explained Angel. "We will look to other counties, states, and academics in order to implement best practices and further the Unit's objective of prosecuting the real perpetrators. We look forward to continued collaboration with NCIP." ♦

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Join us on Facebook and Twitter, and email us at ncip@scu.edu to receive our e-newsletters, to stay abreast on NCIP cases and other news as it happens.



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Client Exonerated by NCIP, continued from page 1

impeached its witnesses, that Anthony is actually innocent, and that Anthony’s defense attorney at trial failed to investigate and present information that suggested Anthony was innocent.

Jones testified at the hearing that to make his identifications of Anthony, he had relied on descriptions from others, along with suggestions from the detectives and false information they had given him.

Anthony’s team of lawyers was comprised of NCIP lawyers Paige Kaneb, Linda Starr and Seth Flagsberg, Loyola Law School’s Project for the Innocent lawyers Adam Grant and Laurie Levenson, and Federal Public Defender Investigator Deborah Crawford. At least 10 law students from Santa Clara University School of Law and students from Loyola Law School also assisted.

“I’m so, so, so relieved to be free,” Anthony said. “I knew from the very beginning justice would come. I never lost faith... I’m just glad they saved me from this situation. Without them I wouldn’t be able to tell you anything about The [Northern California] Innocence Project, and how wonderful a job they did in securing my freedom... For three and a half years they fought for me.”

“Whoever committed this crime should face time for it,” said NCIP attorney Paige Kaneb. “We have a saying that the only person who benefits from a wrongful conviction is the perpetrator. We just need to be careful that we’re putting the right people in prison.”

The Crime

On August 1, 1995, Obie Anthony was convicted of attempted robbery and the murder of Felipe Gonzales near a house of prostitution on March 27, 1994. The conviction was primarily based on the testimony of one witness, John Jones, who operated the house of prostitution, had a prior manslaughter conviction, and was known to carry and use firearms.

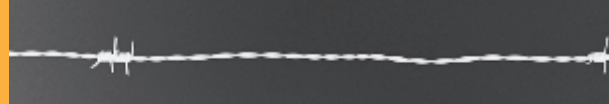
Police had no leads on the crime until one month later when Elliot Santana falsely claimed to have been carjacked at gunpoint by three men. He identified his assailants as Anthony and two friends, Reggie Cole and Michael Miller. Police proceeded to put their photos in photographic lineups and showed them to witnesses in the Gonzales murder. Jones was

Continued on next page

Timeline of Highlights from Obie Anthony’s Case

NCIP is often asked how long it takes to exonerate a wrongfully convicted person. The perception is that post-conviction work should be fast—prove a person innocent and they get out of jail. The reality is that it is a long and

2008	2009
<p>NCIP Receives Case, Assembles, and Begins Reviewing Documents</p> <p>February: NCIP receives letter from Obie Anthony requesting help, and this Southern California case is transferred to NCIP due to a California Innocence Project conflict.</p> <p>April: NCIP further reviews and begins collecting more materials on the case.</p> <p>August: NCIP assigns case to supervising attorneys, clinical fellow and advanced students who begin collecting appellate documents and researching legal issues.</p> <p>September: NCIP brings on Laurie Levenson at Loyola Law School in Los Angeles to help with the investigation.</p> <p>December: Levenson obtains permission to use Federal Public Defender Investigator Deborah Crawford who crafts an investigative plan.</p>	<p>Investigations and Interviews Show Flaws in Prosecution’s Case</p> <p>January: NCIP attorneys interview Obie Anthony in prison. Investigator begins lengthy process of locating and interviewing witnesses, starting with prosecution’s star witness, John Jones, who says police gave him information about Anthony and Reggie Cole which made him believe they were the robbers.</p> <p>February: Investigator and NCIP advanced students are scheduled to interview Carol Canty (John Jones’s girlfriend) at Chowchilla prison but are re-scheduled due to prison staff errors in clearing their visit. The interview gets re-scheduled again due to lack of clearance by prison staff. The interview takes place a week later but Canty will not speak without permission from John Jones.</p> <p>March: Investigator and NCIP students interview Jones again, who gives his permission to speak with Canty. Jones further discloses that the detectives tapped on the photos that they wanted him to choose.</p> <p>June: Jones signs declaration admitting he never saw the perpetrators well enough to identify them.</p> <p>July: Investigator interviews Canty, who describes the shooter’s complexion as much darker than Anthony’s.</p> <p>September: After a long meeting and more than 10 phone conversations, Pat Thomason, Anthony’s original trial attorney, signs a declaration regarding documents that he did not receive from the DA. NCIP obtains DA’s file, finding further occurrence of the prosecution’s suppression of evidence favorable to Anthony.</p> <p>October: Investigations, interviews, and legal work continue.</p> <p>December: After months of searching, investigator locates and interviews shooting survivor Luis Jimenez in Chicago, Illinois. Jimenez attests that the robbers were not teenagers and were much older than Anthony and Cole.</p>



Client Exonerated by NCIP, continued from previous page

the only person to positively identify Anthony in connection with the Gonzales murder.

At trial, the prosecution's case rested entirely on eyewitness testimony. The fingerprints lifted from the scene did not match Anthony, nor did the shoeprints. Detectives found no murder weapon or clothing that matched the descriptions provided by witnesses. In fact, no physical evidence ever connected Anthony to the crime. Furthermore, Anthony presented numerous alibi witnesses who testified that he was at home on the night of the murder. Despite this, Anthony was convicted and received a prison sentence of life without the possibility of parole.

New Evidence Emerges

An NCIP team, along with a Loyola Law School team and Federal Public Defender Investigator Deborah Crawford, conducted an exhaustive re-investigation of the case. They uncovered new evidence that the prosecution had concealed from the defense that John Jones was rewarded for his testimony. Jones also admitted that he never actually saw the perpetrators well enough to identify them.

"This conviction should have never happened," said NCIP Legal Director Linda Starr. "Police purposely ignored and hid

evidence that did not support their theory, and manipulated the witnesses to create evidence to support their misguided tunnel vision. The prosecution falsely denied that they granted their star witness a deal for his cooperation and failed to correct his lies at trial. And Mr. Anthony's own attorney failed to investigate the case. For their failures, Mr. Anthony has spent 17 years in prison for a murder that he did not commit—and the actual murderer has remained free. This cannot be considered justice."

The judge ordered the Los Angeles District Attorney's Office to inform the court by October 31, 2011, regarding whether they would seek to retry Mr. Anthony. The DA asked for an extension, which was granted. The new court date is November 18, 2011. ♦

Log on and "like" NCIP's Facebook page for the latest on whether the DA's office will seek to retry Mr. Anthony. Read more about the role of prosecutorial misconduct in wrongful convictions and the instances of prosecutorial misconduct in your California county at www.veritasinitiative.org, NCIP's prosecutorial accountability center.

complex process. This is an overview of the progression of Obie's case, which took a relatively "fast" course, beginning four years ago at the time NCIP was brought in to help.

2010

The Year of Delays—Evidence of Prosecutorial Misconduct Surfaces

January: Investigators in Mexico cannot locate shooting survivor and witness Victor Trejo. After over a year of requests, NCIP obtains copy of DA's file on John Jones, which proves that he received special treatment in return for his cooperation against Anthony, a fact not disclosed to the defense or the jury. NCIP files 600-page Petition for Writ of Habeas Corpus with exhibits.

May: Court appoints NCIP and requests informal response to Habeas Petition from DA. Only now may NCIP start keeping track of hours to bill the State for our representation.

June: DA files motion to extend time, then files a second motion to extend time later this month.

August: DA working on case must pull out due to family emergency, turns case over to colleague.

September: New DA files a third motion to extend time.

November: DA files 50-page Informal Response.

December: Eyewitness Luis Jimenez signs declaration indicating the perpetrators were 30–40 years old.

2011

Filings, More Delays, and then, Victory

January: NCIP files 60-page Reply to DA's Informal Response.

February: Court issues Order to Show Cause and orders evidentiary hearing.

March: DA on Anthony's trial retires from DA's office and the third counsel for the prosecution takes over the case. Later this month DA files their fourth motion to extend time, and evidentiary hearing is scheduled for April 1, 2011.

April: DA files fifth motion to extend time and court re-schedules hearing for July 18, 2011.

May: DA files sixth motion to extend time. Court asks the parties to appear; evidentiary hearing is re-scheduled for August 30.

July 15: DA files 500-page Return to the Habeas Petition arguing that Anthony's conviction is valid.

July 21: NCIP files a 45-page Motion to Grant Petition.

July 27: NCIP files 100-page Traverse to the Return explaining why DA's arguments are faulty and Anthony must be released.

August: NCIP files Pitchess Motion, which the court grants after argument. DA files People's Motion to Strike Petitioner's Exhibits.

August 30–September 13: Evidentiary hearing in Los Angeles at which NCIP presents witnesses to undermine prosecution's case and prove Anthony was wrongfully convicted. NCIP attorneys sleep on friends' couches to save money.

September 30: Los Angeles County Superior Court Judge Kelvin Filer overturns Anthony's murder and attempted robbery convictions on basis of several constitutional errors.

October 4: Obie Anthony walks out of Los Angeles County Jail as a free man after seventeen years of wrongful imprisonment.

Partner Profile

Public Defender Ellen Eggers Says “Yes” to Innocence Case

After attending a lecture one fateful day in 2006, State Public Defender Ellen Eggers became the driving force behind an innocence case. After the lecture ended, a woman approached



Ellen Eggers at Carrillo's evidentiary hearing

Eggers and said, “I used to be a teacher inside Folsom prison. I believe that the inmate clerk who worked for me is innocent. Would you meet with him or look at his file?” Eggers, who has

always been interested in innocence work, agreed. Within a few weeks, she was in the visiting room meeting with then-inmate Francisco “Franky” Carrillo, who was serving two life sentences for a drive-by murder.

“I was immediately impressed with him,” Eggers said. “He was 32 years old, clean-cut, positive and articulate. Even though a lot of inmates get covered with tattoos, Franky had none. Even though he had been in prison since he was 16, more than 15 years at that point, he tried to make good use of his time. He had earned his GED and taken college courses, and worked for the blind project as a braille transcriber. When Franky told me his story and showed me the evidence, I was shocked. I really believed he was innocent.”

When she returned to her office, Eggers asked her boss for permission to take the case. He declined and said she would have to find private counsel for Franky. Having just met Cookie Ridolfi



Ellen Eggers, actor Mike Farrell and Frankie Carrillo at a Death Penalty Focus Awards Dinner.

from NCIP, she put in a call, then tried Morrison and Foerster attorney Alison Tucher, who she knew had helped free exoneree Rick Walker. Both women returned Eggers's call, and Franky Carrillo's pro bono legal team was born.

Eggers kept tabs on the case from a distance, but in 2008 she received clearance from her boss and became an official member of the legal team, composed of NCIP lawyers Linda Starr and Paige Kaneb, and Morrison and

Continued on page 19

Book Review

TESTED. How Twelve Wrongly Imprisoned Men Held Onto Hope

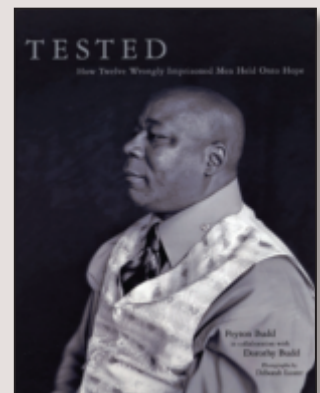
by Peyton and Dorothy Budd, Brown Books Publishing Group. Dallas, Texas, 2010

This compelling book, complete with emotionally provocative black-and-white photo portraits, tells the story of how 12 innocent men, wrongly imprisoned in Dallas, held onto lasting hope and were exonerated after collectively serving 189 years. The authors, an Episcopalian minister and former Dallas prosecutor and her daughter, team up to beautifully provide a snapshot of their stories, struggles, reflections, and ultimate victories.

Dallas leads the nation in DNA exoneration cases. Of the 40 DNA cases reviewed in Dallas County prior to this book's publication (these 12 men among them), a startling 50 percent of defendants have been proven innocent. Not afraid to examine this troubling conviction error is Dallas District Attorney Craig Watkins, who writes the preface to this book. Watkins has set up a Conviction Integrity Unit and is championing the preservation of evidence long after other departments discard it. [See related article on Santa Clara County's Conviction Integrity Unit on page 7]. He, along with Dallas Public Defender Michelle Moore, is working to unravel the over 400 backlogged cases in Dallas County awaiting review and DNA testing.

Based on errors in eyewitness procedures, the withholding of evidence of innocence, and a “conviction at any expense” attitude present in some of these cases, Moore fears there are thousands of wrongfully imprisoned defendants in this country.

The stories of resilience recounted here, as well as the emerging statistics in examining these cases, passionately fuel work for lasting policy change on the innocence frontier. Perhaps this book will promote the setting up of conviction integrity units in all prosecutor offices across America.



Ellen Kreitzberg: 10 Years of Leadership on the NCIP Board



Ellen Kreitzberg has been a member of the NCIP advisory board since its founding in 2001. She has watched Cookie Ridolfi's vision of the Northern California Innocence Project grow from casual dinner table conversation into a successful law clinic that is celebrating 10 years of exonerations, education and reform. Kreitzberg, an SCU professor of law herself, says that the experience has been inspiring.

Kreitzberg became involved with NCIP when her close friends Cookie Ridolfi and Linda Starr asked her to sit on the advisory board because of her extensive background and experience in criminal law. Kreitzberg teaches criminal law at Santa Clara University School of Law and advocates abolition of the death penalty. She created and now directs the Death Penalty College, a residential training program held each August at Santa Clara Law to train lawyers assigned to the defense of a capital case. "Not only does an imperfect criminal justice system have the potential to send an innocent person to his death, but the abolition of the death penalty would free up resources to conduct more thorough investigations of crimes and prevent wrongful convictions," Kreitzberg observed.

Kreitzberg mentors students interested in pursuing careers in criminal law, and attests to the great experience gained by all students who take the NCIP class regardless of their chosen career path. "The NCIP clinical classes provide students with a unique learning experience, as they learn about wrongful convictions and develop skills in deconstructing and investigating complex cases," Kreitzberg explained. "Innocence work makes the community safer and assures the victims that the true perpetrator of the crime is the one incarcerated." ♦

NCIP Welcomes Three New Advisory Board Members

Ann Baskins spent most of her legal career at Hewlett-Packard Company. From 2000 to 2006, she served as Senior Vice President, General Counsel and Secretary of HP. She also held a number of positions as a corporate and securities attorney with HP's legal department from 1982-2000.

Baskins is a longtime volunteer for Stanford University. She is a fellow at Silicon Valley American Leadership Forum, which brings together demonstrated leaders to explore processes of collaborative leadership that can strengthen their capacity to address public issues in Silicon Valley. Baskins received her B.A. from Stanford University and her J.D. from University of California, Los Angeles.

Don Dodson held many positions in his 34 years at Santa Clara University, most recently as Interim Provost and Vice President for Academic Affairs in the 2010-11 academic year and Special Assistant to the President in his final month before retirement.

Since his retirement on August 31, 2011, Dodson has engaged in several volunteer activities, including serving as



Don Dodson

where he was an Assistant Professor of Communication. After serving in the University's Development Office, he joined the Provost's Office in 1981. He served as director of Santa Clara's year-long Institute on Globalization in 2002-03. He is also Professor of Communication, Emeritus.

Dodson received a B.A. in English from Haverford College (1966), an M.A. in Journalism from Stanford University (1967), an M.A. in Political Science from Northwestern University (1968), and a Ph.D. in Mass Communications from the University of Wisconsin (1974).

Paul Kranhold leads the West Coast operations of Sard Verbinen & Co, one of the nation's leading corporate communications firms. As partner, he advises clients on communications

strategies in hostile and friendly M&A, high-profile litigation, management and board changes, product recalls, and government investigations. He has helped a number of companies and investor groups with activist shareholder situations and proxy contests.

Dodson came to Santa Clara in 1977 from Stanford University,

strategies in hostile and friendly M&A, high-profile litigation, management and board changes, product recalls, and government investigations. He has helped a number of companies and investor groups with activist shareholder situations and proxy contests.

Prior to joining Sard Verbinen & Co, Kranhold managed a number of high-profile crisis cases, such as the situation faced by



the family of *Wall Street Journal* reporter Daniel Pearl. He served as the lead media spokesperson for the governor of California during the 1994 Northridge earthquake in Los Angeles. He has served as Vice President of Corporate Public Relations for AT&T. Kranhold was appointed as press secretary to California Governor Pete Wilson and began his career in Washington D.C. on the campaign of President George Herbert Walker Bush. He completed his undergraduate work at George Washington University. ♦

Northern California Innocence Project's Fourth Annual Justice for All Awards Dinner

"There is no higher calling for an attorney than to represent the men and women who are here on this stage tonight, and the many others who are currently wrongfully serving time in our prisons," said Cooley Godward attorney Neal Stephens at NCIP's 2011 Justice for All Awards Dinner on June 2.

More than 400 supporters joined NCIP to pay tribute to those who have worked so diligently for the wrongfully convicted and continue to work for critically needed law reforms. The 2011 award recipients included:

Leadership Award: Betty Anne Waters, for her extraordinary leadership, courage and perseverance to obtain the exoneration of her brother, Kenny, and for continuing to work for exonerations of other innocent defendants.

Leadership Award: Pamela Gray, "Conviction" screenwriter, for creating an inspiring portrait of one woman's fight to exonerate her brother that continues to educate the world about the issue of wrongful conviction.

Freedom Award: Exoneree John Thompson, for his extraordinary strength and courage in the face of egregious

prosecutorial misconduct and for continuing to seek accountability in the criminal justice system.

Media Award: Attorney and author John Hollway, for writing "Killing Time," a powerful exposé of prosecutorial misconduct and one man's journey from death row to freedom.

Pro Bono Award: Cooley LLP, for its hundreds of hours of work, superb amicus briefs on crucial issues, and steady devotion to justice.

The program, emceed by NBC Bay Area reporter Scott Budman, featured Academy Award®-nominated actress Juliette Lewis, who played Roseanna

Perry in "Conviction," and included performances by Grammy® Award-Winning singer Tony Lindsay.

In presenting exoneree John Thompson the 2011 Freedom Award, his attorney, J. Gordon Cooney, used one poignant story to describe Thompson. Cooney spoke about the time when he and Michael Banks, his partner on the case, had received the eighth and final writ of execution, and went to tell Thompson he was going to die for two crimes he did not commit:

"John wasn't worried about himself; he was worried about what his execution would do to his young son... So he spent



Cookie Ridolfi warmly welcomes over 400 guests to the Justice for All Awards Dinner celebrating NCIP's 10th Anniversary.



Pamela Gray (left) and Betty Anne Waters (center) smile after accepting Leadership awards presented by actress Juliette Lewis.



From left to right: Rick Walker, Mashelle Bullington, Gloria Killian, John Thompson, Betty Anne Waters, Bismarck Dinius, Franky Carrillo, Ronnie Carmona, mother of the deceased exoneree Arthur Carmona.

Justice for All Awards Dinner Raises Over \$840,000

the next 20 minutes of our conversation getting us to assure him that we'd look after his youngest son after he was gone," Cooney recalled. "Then he spent the next 15 minutes trying to assure us... that we had done everything we could to fight for him and how deeply he appreciated our efforts... It was not the conversation I expected—but it was very much the person we had come to know."

From Juliette Lewis, who implored NCIP to keep up the good fight, to

Cookie Ridolfi who, when introducing each exoneree, declared she has the best job in the world, the evening was rich with inspiring stories and heartfelt praise for the good work done by so many. When all was said and done, supporters helped NCIP raise more than \$840,000 for exoneration, education and reform. The Project is eternally grateful for the tremendous support and looks forward to Justice for All 2012! ❖



Author John Hollway accepts the Media Award from NCIP advisory board member Nancy Heinen.



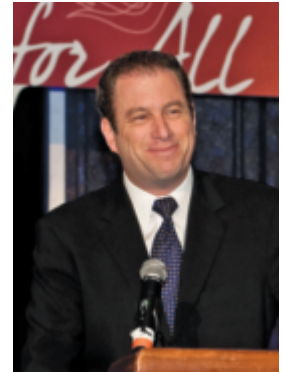
NCIP Advisory Board Chair Frank Quattrone enjoying the evening.



Rick Walker and Franky Carrillo congratulating Alison Tucher who worked to exonerate both.



Linda Starr presents the Pro Bono Award to Cooley LLP Partner Neal Stephens.



Master of Ceremonies Scott Budman entertains the crowd.



Freedom Award winner John Thompson with his attorney, Gordon Cooney, who traveled from Philadelphia to present him with the award.



Exonerees Franky Carrillo, Maurice Caldwell, John Stoll and Antoine Goff

Save the Date: March 22, 2012

The date is set, now all we need is you! Justice for All 2012 will be held on Thursday, March 22, in San Jose. Watch your mail for more information on sponsorship opportunities and your invitation, and get the latest updates on our JFA web site at www.justiceforalldinner.com.

Donor Profiles

Harriet Siegel



Harriet Siegel

Harriet Siegel, who has always been an activist, was exposed to the Northern California Innocence Project (NCIP) after seeing the play “The Exonerated” in San Francisco. “There were nine people on stage who had been exonerated. I was so impressed with it and remained interested,” she said. “Now, every January 1st, I send a donation.”

On top of sending her annual donations, Ms. Siegel and her friend, Janice Dong, try to attend every NCIP event. “I was fortunate to attend the 2009 Justice for All Awards Dinner. I was so impressed because at each table there was an exonerated person. It was an amazing experience.”

Ms. Siegel was an educator for 31 years, mostly for Campbell Union School District, and is quite interested in the law because her oldest son is a retired U.S. Supreme Court law clerk and her oldest daughter is married to a lawyer.

She has been on a mission to spread the word about NCIP. She said, “I had my temple invite someone from the Project to talk to them because they didn’t know about NCIP. More people need to know about the great work that you do.”

She has also been circulating the “Witch Hunt” DVD she received at the awards dinner among neighbors and members in her group, including a judge. Ms. Siegel believes in the importance of the work and wants to make sure that everyone who donates to NCIP continues to do so to keep the project going full blast.

Roberta Fitzpatrick



Roberta Fitzpatrick

In 2005, Roberta Fitzpatrick attended an Osher Life Long Learning Institute class at Santa Clara University based on “The Exonerated,” a play revolving around the stories of six former Death Row prisoners who were released from prison after their convictions were reversed. Later, Cookie Ridolfi, NCIP executive director, sat down with the group and explained NCIP’s work. Ms. Fitzpatrick, a retired special education teacher, was unaware of how great an impact NCIP and the justice system would have on her life in the future.

Not long after that class, unbeknownst to Ms. Fitzpatrick, her great niece, Alycia Mesiti-Allen, was sent to live with her father, a multiple convicted felon. Ms. Fitzpatrick had not been in contact with her great niece at the time and was unaware of her living arrangements. It was not until Alycia had been reported as a runaway and the police later found her body that Ms. Fitzpatrick became involved. She was determined to find out why the family court had made a living arrangement that ended her Alycia’s life.

“I did not believe Alycia was a runaway, and waited two and a half years to find out what happened to her,” Ms. Fitzpatrick said. “Police wouldn’t even take calls from her own mother because she had been declared a runaway.” About three months after a new investigator took over the case, police discovered her niece’s body buried in her father’s previous backyard in Stanislaus County.

— Profiles continued on next page —

Alumnus Profile

John Scardamaglia



John Scardamaglia

As a Santa Clara Law student taking NCIP’s clinical program in August of 2008, John Scardamaglia was motivated by the class. “It’s unlike any other law school class in that you work on cases representing clients who are incarcerated and work toward their release. The policy and theory of classroom work is interesting but nowhere near as interesting as working on actual cases,” he explained.

The valuable hands-on experience proved to be indispensable to his current line of work. After graduating from Santa Clara Law in May 2009 and passing the Bar, Scardamaglia landed his dream job—working as a staff attorney with the California DNA Project, which was founded in 2009 and funded from a grant NCIP received from the National Institute of Justice.

The California DNA Project conducted an outreach to 18,000 inmates in California prisons to identify wrongfully convicted prisoners with the goal of determining whether or not there is DNA evidence to be tested. Scardamaglia and his colleagues have screened the 2,000 responses received to date and they are now investigating and seeking DNA in the cases they selected. Describing the experience of sorting through the deluge of requests, he said, “Initially it was overwhelming, but we have good criteria to select the cases we work on and we have great support from NCIP staff, who have considerable experience with case intake.”

Harriet Siegel, cont.

"I recently celebrated my 85th birthday. I asked for no gifts, instead, I handed out donation envelopes for NCIP," said Ms. Siegel. On top of passing along all the material she receives from us to her neighbors and friends, she never forgets to include the envelope for donations.

"I think you are doing such terrific, uplifting work. You put positive feelings on everything you do and are very successful," said Ms. Siegel. "I have a motto in my life that I picked up from the Holocaust days: 'the sin of omission is as great as the sin of commission.' I can't just stand by and let injustice prevail. I feel so indebted to promote NCIP. This is one of my strongest guiding powers." ❖

Roberta Fitzpatrick, cont.

"It makes my insides rage for justice. I want to help make the system more just any way I can," Ms. Fitzpatrick said. "I realized the Northern California Innocence Project was already doing this; it's such a worthwhile organization to be a part of." Fitzpatrick, who had already been financially supporting NCIP before she learned of her niece's murder, continued her support.

Ultimately, Ms. Fitzpatrick wants to see changes made to the laws in family court that sent her niece to her father. She spends much of her time trying to get to the bottom of how this could have happened and how she can help change the system so it doesn't happen to someone else's loved one. She will continue her work for justice.

She has attended every Breakfast Briefing since the first one in September 2010. "The Northern California Innocence Project has had a positive impact on me," she said. "It has reassured me that there are decent people out there who care about others." ❖

John Scardamaglia, cont.

Although there can be many obstacles to justice, Scardamaglia says he still believes that at the end of the day, the justice system works, even if it makes a mistake the first time around. Ultimately, the inspiration to continue the work comes from the clients. "I'm determined to do everything I can to exonerate the innocent," he says. "It's the most motivating thing I can think of. Everyday problems can seem small when innocent people are sitting in prison." ❖

In Memoriam Santa Clara Law's Mary Emery



Mary Emery

*What we have once enjoyed we
can never lose. All that we love
deeply becomes a part of us.*

—Helen Keller

All of us at Santa Clara University School of Law are deeply saddened by the passing of one of the law school's most beloved and respected members, Associate Dean and Library Director

Mary Emery, 73. Emery, one of the first three women to graduate from Santa Clara Law, was a confidante of some of the law school's most illustrious graduates—as classmate, professor, and mentor.

Many people considered Mary Emery to be the heart and soul of Santa Clara Law. Throughout her time at the university, she made numerous significant contributions to the school. She bravely took on the challenge of transforming the law school into a more inclusive and diverse environment, with engaged and passionate men and women striving to become successful lawyers. Emery served as a great mentor and an amazing counselor to those who wanted to pursue a legal career but faced difficult obstacles such as financial hardship or gender issues. Her devotion and commitment to the law school left an imprint on the lives of many people.

"Dean Mary Emery supported NCIP before it was a project, before we had a name or a dollar—she encouraged us to do this work, encouraged the university to support us and was the first person to write us a check to make it real," remembered Cookie Ridolfi in paying tribute to Emery. "She is sorely missed."

Aside from being committed to the Santa Clara Law community, Emery was also very involved with the Catholic Church. She firmly believed in the idea of serving others and strived to reach out in order to nurture those in the community who needed it most.

Mary Emery will be missed by her friends, family, and colleagues but her legacy will continue to touch us all.

NCIP's Innocence Matters Breakfast Briefings Return for

The fall series of NCIP's Innocence Matters Breakfast Briefings has begun and brings some well-respected speakers to the Santa Clara University campus. This speaker series brings awareness to the prevalence and causes of wrongful conviction as well as other topics relating to NCIP's work to exonerate, educate, and reform. Discussing such topics as prosecutorial misconduct, eyewitness misidentification, and even NCIP's own cases, the Breakfast Briefings have provided a forum to discuss important issues surrounding wrongful convictions.

Past briefings earned rave reviews. One attendee said, "I was truly moved by today's presentation." Another appreciated "understanding about why [NCIP] cases take so long once litigation begins." Others have called the events "thought-provoking," "highly informative," and "relevant." In case you missed any of our past Breakfast Briefing discussions, here is a recap of some of this year's briefings:

The Big Dig: The Archeology of Post-Conviction DNA Case Investigation

The preservation of evidence is a big obstacle in DNA cases as Cathy Dreyfuss, director of the California DNA Project (CDP), explained. CDP lawyers spend hours and hours digging into approximately 200 active cases, some of them many years old, just to find the evidence to submit for DNA testing.



Cookie Ridolfi answers a question about her research on prosecutorial accountability in California.

Prosecutors: Accountable or Not?

A large crowd turned out to hear NCIP Executive Director Cookie Ridolfi and Pulitzer Prize-winning journalist Maurice Possley present the results of their ground-breaking research of prosecutorial misconduct in California. Ridolfi and Possley discovered over 800 cases between 1997 and 2010 where the court found that a prosecutor had committed misconduct. Remarkably, almost a third of the misconduct cases involved a multiple offender, a prosecutor who had more than one finding of misconduct.

Reasonable Doubt: Forensics in the Courtroom

NCIP staff attorney Seth Flaggberg discussed the 2009 National Academy of Sciences report which concluded that with the exception of DNA analysis, other forensic methods cannot reliably distinguish individuals or sources.

Mission (Im)Possible: Two Exonerations in Two Weeks!

Nearly 100 people came to hear the incredible stories of how NCIP secured the exonerations of Franky Carrillo and Maurice Caldwell. Both men spent 20 years in prison wrongly convicted after mistaken eyewitness identification.

Breakfast Briefings: 2011 Speakers



John Scardamaglia



Kelley Fleming



Maurice Possley



Missy Dague O'Connell

Fall Series

The Myth of Fingerprints: Challenges to the Belief that No Two Fingerprints are Alike

Ken Moses, a certified latent print examiner, detailed the complexity of forensic science focusing on fingerprint identification. He pointed to the fact that no two images are ever perfectly identical as evidence that fingerprint analysis is subjective. Fingerprint analysis is moving in the direction of only giving the probability that two fingerprints are from the same person rather than absolutes.



Santa Clara District Attorney Jeff Rosen talks with a Breakfast Briefing attendee.



Paige Kaneb, Maurice Caldwell and Franky Carrillo at the Mission (Im)Possible Breakfast Briefing

False Confessions: Why Innocent People Confess

Richard Leo, an internationally recognized police interrogation researcher, delved into the world of false confessions. He discussed the reasons why an innocent person would confess to a crime and how different interrogation techniques can lead to false confessions.



Linda Starr, NCIP legal director greets attendees.



The crowd listens intently to "Preventable Error" co-author Maurice Possley.

Join Us In December

Breakfast starts at 7:30 a.m. and the sessions run from 8 a.m. to 9 a.m.

December 14, 2011:

Case Files: The Exoneration of Obie Anthony

We look forward to seeing you! Go to <http://breakfastbriefing2011.eventbrite.com/> to register and see future briefing topics.



Richard Leo



Seth Flaggberg



Ken Moses



Cathy Dreyfuss



NCIP Attorney Paige Kaneb with client Obie Anthony

Paige Kaneb, continued from page 1

get them out of prison,” Kaneb says. “I quickly learned that it’s an enormous, lengthy, uphill battle. Two of the cases I worked on took three years before our clients were exonerated. It was incredibly frustrating, but when justice did at last prevail, it was one of the most rewarding and magical experiences of my life.

“There is nothing better than seeing an innocent man walk out of prison after spending years wrongfully imprisoned,” she says.

Later, in 2007, Kaneb accepted a clinical fellowship position—one of two donor-funded fellowships at NCIP that year. Under the guidance of Legal Director Linda Starr, Kaneb began directing her own case investigations—interviewing witnesses, conducting extensive legal research, and drafting legal pleadings. As a clinical fellow, Kaneb worked on the successful exoneration of Armando Ortiz and the acquittal of Bismarck Dinius.

As she continued to grow in her role, Kaneb was promoted to NCIP supervising attorney in 2010, joining existing NCIP supervising attorneys Maitreya Badami, Rhonda Donato, Seth Flaggberg, and Charles Press.

Since then, Kaneb has worked with clinic students to prove the innocence of NCIP clients. Three of those clients—Anthony, Caldwell and Carrillo—walked free this year; an accomplishment that Starr says is a testament to Kaneb’s dedication and hard work.

“I have watched as Paige’s passion for helping others turned her from a smart young woman into a fantastic attorney,” Starr says. “Her sense of justice drives her, while her devotion, intellect and hard work make it happen—and three men have their freedom.”

NCIP was founded in 2001 with the three-pronged mission to exonerate the innocent, reform the system, and educate future lawyers. Kaneb is a shining example of NCIP’s mission at its best—training and supporting young lawyers who have both the commitment and talent that is necessary to effectively represent the wrongfully convicted in the complex arena of post-conviction litigation.

And donor support was key in making it happen, by funding NCIP’s clinical fellow program. ♦

Help NCIP Fund-a-Fellow:

NCIP would like to fund more positions for bright new attorneys to get hands-on experience while they help reduce our backlog of cases waiting for attention. Help us make this happen by making your gift today!

Ninth Circuit Orders Hearing on NCIP Client’s Innocence Case

NCIP client George Souliotes will finally get his day in court. Souliotes was sentenced to life in prison for a triple homicide after a 1997 house fire killed his tenant and her two children in Modesto, California.

However, at the request of NCIP, a fire science expert re-examined the evidence using techniques not available in 1997. He established that new scientific techniques discredited evidence placing Souliotes at the scene of the crime by proving that the substance on Souliotes’s shoes was not the same as the accelerant allegedly used to set the fire, as had been argued by prosecutors. In addition, Mr. Souliotes’s attorneys failed to expose that factors which the prosecutors relied upon to prove arson were invalid.

For years, NCIP attorneys along with attorneys from the law firm of Orrick, Herrington and Sutcliffe have argued that Souliotes is innocent. For years, that argument has been barred from being heard in court because of a five-day delay in filing paperwork.

In August 2011, the Ninth Circuit issued a new order directing a federal district judge to hold an expedited evidentiary hearing regarding Souliotes’s claim of actual innocence. And according to a court order of the federal district court, NCIP attorneys will finally be able to present persuasive evidence of Souliotes’s innocence and how inaccurate fire science contributed to the incorrect determination that Souliotes deliberately set the fire. Once Mr. Souliotes can sufficiently establish his claim of innocence, the court will consider his underlying claim of ineffective assistance of counsel as well.

The evidentiary hearing has not yet been set. NCIP attorneys are eager to finally present Mr. Souliotes’s claim to a court and are preparing for the hearing so that it may be held as soon as possible. ♦

“Like” us on Facebook to receive updates on this case as they happen.

10 Years and Counting, continued from page 5

In addition, at NCIP's new policy and research center called the Veritas Initiative, attorneys and researchers focus on providing real data to help drive reform of California's justice system. "This, to me, is really encouraging," explained Ridolfi. "We're being much smarter about how we work for reform. Using real data by studying actual cases to effect policy changes is incredibly promising."

But at the core, both Ridolfi and Starr agree that the exonerations are the ultimate motivators. "These are really hard cases," Ridolfi said. "The presumptions are all against you. But ultimately it's the cases, the stories, and the people that keep us going." ♦

Ellen Eggers, continued from page 10

Foerster lawyers Alison Tucher, George Harris, Helen Irza, Skye Donald and Erika Drous. Since Eggers was still a state employee, she was required to perform all work on Carrillo's case on her own time and at her own expense.

Eggers immediately threw herself into the work of investigating Carrillo's case. She spent her weekends at the prison questioning Carrillo about every detail of his life before prison. "I put his feet to the fire," Eggers explained. "I wanted to be sure he was really innocent before I poured myself into this."

She was an indefatigable force on the case, visiting the crime scene, consulting with experts, locating and interviewing witnesses with the help of investigator Pamela Siller, connecting with the victim's family, meeting with the District Attorney's Office, and working to develop the legal strategy. "Franky was a very important part of the defense team as well," explained Eggers. "He put together helpful charts, timelines and even made a scaled drawing of the crime scene based on my measurements that we used as a hearing exhibit."

After years of investigation and legal work turned up evidence of Carrillo's innocence, the legal team filed a petition for writ of habeas corpus. On March 14, 2011, after an intense and emotional evidentiary hearing, the Los Angeles County District Attorney's Office conceded that Franky had met his burden of proof. A Superior Court judge reversed the conviction and ordered Franky's release after nearly two decades behind bars.

"Ellen Eggers's hard work and persistence on Franky's case was phenomenal," said Linda Starr, NCIP legal director and member of Franky's legal team. "She was relentless and unstoppable—I'm glad that we were on the same side!" ♦

In addition to the exoneration of Obie Anthony, there have been other exonerations throughout the country. Congratulations to all involved!

Harry Miller, 57, was wrongfully imprisoned for four years before being exonerated in September. Mr. Miller, a Louisiana native, was convicted in Utah in 2003 of aggravated robbery. He was misidentified by the victim and eyewitnesses at trial. He could not have committed the crime because he was in Louisiana at the time recovering from a stroke. Despite being released in 2007, Mr. Miller was not officially exonerated until this year after Utah passed a statute allowing non-DNA cases of factual innocence to qualify for official exoneration. The Rocky Mountain Innocence Center (<http://rminnocence.org/>) represented Mr. Miller, who will be eligible to receive compensation for his four years of incarceration due to the factual innocence declaration.

David Ayers, a 54-year-old Ohio man, spent more than a decade in prison for a murder he did not commit. Mr. Ayers was exonerated in September after a federal judge ruled that the trial court should not have allowed jailhouse informant testimony. Mr. Ayers's legal team, which included both public defenders and attorneys from the Ohio Innocence Project (www.law.uc.edu/news/OIP14victory), also presented the results of a DNA test which excluded Mr. Ayers as a suspect.

Michael Morton, a Texas man convicted of killing his wife, was released in October after spending nearly 25 years in prison. Texas Court of Criminal Appeals Judge Sid Harle overturned Mr. Morton's conviction after DNA tests showed that another man was responsible. Mr. Morton always maintained that an intruder beat his wife to death after he had already left for his job early in the morning. The new DNA evidence pointed to a man and linked him to another murder committed after Morton's wife was killed. There was also other evidence that supported Mr. Morton's version of the story. Mr. Morton said that the intruder stole his wife's purse and prosecutors hid information that one of her credit cards was used two days after her death (www.innocenceproject.org/Content/Texas_Man_To_Be_Freed.php). ♦

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We are thankful for all exonerees who inspire us with their grace and courage.

And most of all, we are thankful for all of you who continue to support our work to exonerate the innocent, educate the community, and reform the causes of wrongful conviction. We cannot do it without you and we are eternally grateful.

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